

# HOUSE BILL REPORT

## HB 2184

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**As Reported by House Committee On:**  
Criminal Justice & Corrections

**Title:** An act relating to credit for time served in a presentence day reporting program.

**Brief Description:** Authorizing credit for time served in a presentence day reporting program.

**Sponsors:** Representatives Kagi and Darneille.

**Brief History:**

**Committee Activity:**

Criminal Justice & Corrections: 3/1/05 [DPS].

**Brief Summary of Substitute Bill**

- Provides that, for offenders convicted of non-violent and non-sex offenses, the court may authorize county jails to credit jail confinement to an available county supervised community option. The court may also authorize earned release credit consistent with the local correctional facility standards.

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### HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 4 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Kagi and Kirby.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; and Strow.

**Staff:** Kathryn Leathers (786-7114).

**Background:**

When an accused person is arraigned on a noncapital case, court rule establishes a presumption that the person should be released on his or her own recognizance and not be confined pending trial or resolution of the matter. A person accused of a noncapital offense is released unless:

- the court determines that release will not reasonably assure the accused's appearance;
- there is a likely danger that the accused will commit a violent crime; or
- there is a likely danger that the accused will seek to intimidate witnesses or otherwise unlawfully interfere with the administration of justice.

In making a determination of whether an accused will be released, the court must consider all relevant factors, including but not limited to the following: the accused's history of response to legal process; the accused's employment status and history; the accused's enrollment and participation in an educational, training, counseling, or treatment program; the accused's family ties and relationships; the accused's reputation, character, and mental condition; the length of the accused's residence in the community; the accused's criminal record; the willingness of responsible members of the community to vouch for the accused's reliability and assist him or her in complying with any conditions of release; the nature of the charge, if relevant to the risk of nonappearance; and any other factors indicating the accused's ties to the community.

If the court determines that the accused is not likely to appear at future hearings if released on his or her own personal recognizance, the court must impose the least restrictive of the following conditions that will reasonably assure that the accused will be present for later hearings, or, if no single condition gives that assurance, any combination of the following conditions:

- place the accused in the custody of a designated person or organization agreeing to supervise the accused;
- place restrictions on the travel, association, or place of abode of the accused during the period of release;
- require the execution of a bond in a specified amount;
- require the accused to return to custody during specified hours or to be placed on electronic monitoring, if available; or
- impose any condition other than detention deemed reasonably necessary to assure appearance as required.

The courts have ruled that the Sentencing Reform Act (SRA) provides that the sentencing court must give an offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced. Further, the courts have found that the SRA clearly provides for credit against a sentence for time served in pre-sentence "partial confinement."

By statute, "partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court, for a substantial portion of each day with the balance of the day spent in the community. "Partial confinement" includes work release, home detention, and work crew. However, it does not include other enhanced supervision that might be imposed by a court when releasing an accused person from pre-sentence confinement.

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### **Summary of Substitute Bill:**

Provides that for offenders convicted of nonviolent and non-sex offenses, the court may authorize county jails to credit jail confinement to an available county supervised community

option. The court may also authorize earned release credit consistent with the local correctional facility standards.

**Substitute Bill Compared to Original Bill:**

Strikes the language creating a pre-sentence day reporting program for persons accused of non-violent and non-sex offenses. Inserts language to allow courts to authorize the county jails to credit jail confinement to an available county supervised community option and to authorize earned release credit consistent with the local correctional facility standards.

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**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Testimony For:** (In support) King County has done an extraordinary job of determining and implementing alternatives to putting individuals in jail, when appropriate, and has successfully reduced its jail population at the same time. King County requested this bill to give them an additional tool to manage their jail populations. King County, Community Corrections, Department of Adult and Juvenile Detention has made tremendous efforts to provide confinement alternatives to many offenders that is both cost effective to the jails and also addresses public safety concerns. In some cases, the confinement alternative provides treatment but does not allow for good time credit. We want the courts and all parties involved to be able to provide the greatest number of options to offenders that are deemed safe to be in the community.

(Concerns) The prosecuting attorneys are willing to support one-for-one credit for authorized alternative confinement but unsure about earned early release time. Changing the statutory definitions of "confinement" and "partial confinement" can be tricky. The prosecutors are willing to work with the parties to resolve our differences.

**Testimony Against:** None.

**Persons Testifying:** (In support) Representative Kagi, prime sponsor; and David Winger, King County.

(Concerns) Tom McBride, Washington Association of Prosecuting Attorneys; and Tom Briston, King County.

**Persons Signed In To Testify But Not Testifying:** None.